| Title | Adoption (amend Cal. Rules of Court, rule 1464; revise forms ADOPT-200, ADOPT-210, and ADOPT-215) |
|---|---|
| Summary | The proposed revisions to the adoption forms and the proposed amendment to rule 1464 of the California Rules of Court would assist litigants and practitioners in completing the adoption process. Rule 1464 would be amended to require court clerks to provide form ADOPT-200 to the California Department of Social Services (CDSS) along with any adoptive placement agreement. The rule also would be amended to require that where there is no adoptive placement agreement, court clerks submit the child's birth name and birth parents' names on a separate cover sheet, along with form ADOPT-200, in lieu of CDSS form AD 3. |
| Source | Family and Juvenile Law Advisory Committee<br>Hon. Michael Nash and Hon. Mary Ann Grilli, Co-chairs |
| Staff | Jennifer Walter, 415-865-7687, jennifer.walter@jud.ca.gov |
| Discussion | Shortly after the plain-language adoption forms became effective, a number of people, including court research attorneys, practitioners, clerks of the court, and the representatives of the California Department of Social Services, contacted the Administrative Office of the Courts with suggested revisions to the adoption forms and an amendment to rule 1464.<br><br>The proposed revisions to ADOPT-200 include the following:<br><br>1. In item 1, there is a need for the petitioner's/requester's address even if the person has a lawyer, and therefore the parenthetical, "skip this if you have a lawyer," would be deleted. The agency conducting the home study of the adopting parents requires the address of the adopting parents.<br><br>2. In item 5, the child is more accurately described as a dependent of the court rather than the county if there is an open juvenile court case.<br><br>3. On page 1, the box for the hearing date, would include the statement "To be completed by the clerk of the superior court, if a hearing date is available." In most independent adoptions, the hearing date will not be issued by the clerk upon the filing of the Adoption Request. Additionally, it was not clear that the |

clerk, and not the petitioner/requester, is to complete this box.

4. A new line was added to former item 10, new item 9, for stepparent and domestic parent adoptions, to indicate whether the birth parent is out of state, in which case his or her consent is required to be signed before a notary under Family Code section 9003(b).

5. Former item 14, new item 10, pertaining to the adoption of children conceived through artificial insemination, was amended to clarify that it did not exclude in-home inseminations.

6. New item 20 was added to provide a line for the lawyer to sign the Adoption Request as the line was present on the original Adoption Petition; however, the lawyer need not sign under penalty of perjury, as was the case on the original form.

7. Spaces were added to former item 12, new item 13, to clarify that consent is not necessary for any of the persons checked.

8. Items were reorganized to more clearly direct those completing the form to the items to be completed depending on whether they are seeking an agency, independent, or stepparent/domestic parent adoption. The items were renumbered as a result.

9. The legal terms for possible parents (i.e., "birth mother," "presumed father," and "biological father") in former items 13, 15, 16, 17, 18, 19 (new items 14, 15, 7, 8, 16, 17) were replaced with "name" and "relationship to child." The current legal terms omitted the possibility of  "legal mothers" and "legal fathers" in stepparent and domestic partner adoptions where there would not necessarily be a birth mother or a birth father. Adding more legal terms would be more confusing to the layperson. The "plain-language" change is preferable to the current legal terms, which both are limiting and ask the layperson completing the form to make legal conclusions.

10. In sections relating to agency and independent adoptions, where persons state that they agree to the adoption, these statements have been revised to include that the persons agreeing have also signed the appropriate forms for consent and relinquishment required by the California Department of Social Services. Users deemed the plain-language wording, "agree to

the adoption" as too vague. With the reference to the CDSS forms added, the person completing the form will learn that additional forms must be completed.

11. Cites were added to assist with distinctions among agency, independent, and stepparent/domestic parent adoptions.

The proposed revisions to ADOPT-210 include the following:

1. All items requiring signatures were amended to include a parenthetical direction "sign at hearing," so that court users do not sign the form in advance of their court date hearing; otherwise they must complete a new form and sign before the judge. The signature line for the child over 12 (item 3) was amended to include a statement that the child must sign at the hearing as required under Family Code section 8602.

2. Also in item 3, the request that the child's birth name be listed so relatives would be able to contact the child was deleted, because it might give the false impression to children that relatives would contact them.

3. Former items 4.a.(1) and 4.a.(2) and former items 4.c(1) and 4.c(2) had separate boxes suggesting that one need not agree to both statements, when in fact the adopting parent(s) do not have a choice and must agree to both statements. For this reason, the boxes were deleted.

4. Former item 4.b became its own item, number 5, as it only pertained to stepparent and domestic partner adoptions. The wording of the statement was clarified by adding the words "of the child," because the way the statement read it was unclear whether the parent was the parent of the child to be adopted or of the spouse/domestic partner. Additionally, the signature line read "Adopting Parent," which was erroneous, because the person signing is the legal parent (e.g., domestic partner/birth parent or stepparent/legal parent who already adopted the child).

The proposed revisions to ADOPT-215 include the following:

1. Former item 2, new item 3, was revised to include the state and country of the child's birth.

2. New item 2 was added to indicate the type of adoption order granted.

3. Former item 4, new item 5, which lists the people present in court, was moved above the box that the judge completes, because the person completing the form is not able to complete this item in advance of the hearing.

4. Former item 5b, which asked for the child's birth name to be listed so relatives would be able to contact the child, was deleted because it might give the false impression to children that relatives would contact them.

5. Former items 9 and 10 were consolidated into new item 10, and the boxes pertaining to the child's adoptive name and the establishment of the adopting parent(s) as the legal parent(s) of the child were removed to show that the judge does not have a choice in making these orders as part of an adoption order.

Rule 1464 would be amended to help expedite the adoption process as it applies to form ADOPT-200.

Currently court clerks are required to notify the California Department of Social Services (CDSS) in writing of a pending adoption proceeding. (Fam. Code, §§ 8714(b), 8802(a)(2), 8912(a).) Court clerks have been providing this notice by sending a CDSS form, *Notice of Pendency* (form AD 3), to the CDSS.

The CDSS would like to revoke form AD 3 and use form ADOPT-200 in its place. The CDSS reports that form AD 3 often lacks all the information required to complete the adoption. The need to collect this information delays the adoption process. Form ADOPT-200 is a mandatory form and contains all the information the CDSS requires to expedite the adoption process, except for the child's birth name and the names of the birth parents.

The CDSS has requested that Judicial Council adopt a rule of court that would direct the clerk of the court to forward to the CDSS a copy of Judicial Council form ADOPT-200, along with a copy of the adoptive placement agreement. If there is no adoptive placement agreement, the clerk would instead provide the child's birth name and birth parents' names on a separate cover sheet accompanying form ADOPT-200.

4

The suggestion that form ADOPT-200 be revised to include information about the child's birth name was considered and rejected as being contrary to current law. The prohibition on including the child's birth name on ADOPT-200 is found in Family Code section 8714(d) regarding agency adoptions, section 8912(b) regarding intercountry adoptions, and section 9000(e) regarding stepparent and domestic partner adoptions.

Technical amendments to the rule that would be made include updating the titles of the adoption forms to reflect their current plain-language names.

The text of the proposed amended rule is attached at pages 6–7.

The proposed revised forms are attached at pages 8–14.

Attachments

Rule 1464 of the California Rules of Court would be amended, effective January 1, 2004, to read:

1 **Rule 1464. Adoption**
2
3    **(a). [Procedures—Adoption]**
4
5       (1)  The petition for the adoption of a dependent child who has been
6            freed for adoption may be filed in the juvenile court with
7            jurisdiction over the dependency.
8
9       (2)  All adoption petitions ~~shall~~ must be completed on Judicial Council
10           form *~~Petition for~~ Adoption Request* (ADOPT-200) and ~~shall~~ must
11           be verified. In addition, the petitioner must complete the Judicial
12           Council forms *~~Petitioner Consent and Agreement to Adoption~~*
13           *Adoption Agreement* (ADOPT-210) and *~~Order of Adoption~~*
14           *Adoption Order* (ADOPT-215).
15
16       (3)  A petitioner seeking to adopt an Indian child ~~shall~~ must also
17           complete Judicial Council form *~~Attachment to Petition for~~*
18           *~~Adoption—~~Adoption of ~~an~~ Indian Child* (ADOPT-220). If
19           applicable, the Judicial Council form *~~Consent to Termination of~~*
20           *~~Parental Rights and Certification—Adoption of an Indian Child~~*
21           *Parent of Indian Child Agrees to End Parental Rights* (ADOPT-
22           225) may be filed.
23
24       (4)  The clerk ~~shall~~ must open a confidential adoption file for each
25           child, and this file ~~shall~~ must be separate and apart from the
26           dependency file, with an adoption case number different from the
27           dependency case number.
28
29   **(b). [Notice]** The clerk of the court must give notice ~~Notice~~ of the adoption
30       hearing ~~be given~~ to the following:
31
32       (1)  Any attorney of record for the child~~,~~;
33
34       (2)  Any court-appointed child advocate~~,~~;
35
36       (3)  The child welfare agency~~,~~; ~~and~~
37
38       (4)  The tribe of an Indian child~~.~~; and
39

  (5) The California Department of Social Services. The notice to the California Department of Social Services must include a copy of Judicial Council form *Adoption Request* (ADOPT-200) along with a copy of any adoptive placement agreement. If there is no adoptive placement agreement, the clerk must include, on a separate cover sheet, the birth name of the child and the names of the birth parents.

**(c) [Hearing]** If the petition for adoption is filed in the juvenile court, the proceeding for adoption ~~shall~~ must be heard in juvenile court once appellate rights have been exhausted. Petitioner and the child must be present at the hearing. The hearing may be heard by a referee if the referee is acting as a temporary judge.

**(d) [Record]** The record ~~shall~~ must reflect that the court has read and considered the assessment prepared for the hearing held under section 366.26 and as required by section 366.22(b), the report of any court-appointed child advocate, and any other reports or documents admitted into evidence.

**(e) [Assessment]** The preparer of the assessment may be called and examined by any party to the adoption proceeding.

**(f) [Consent]** At the hearing, each adoptive parent and the child, if 12 years of age or older, ~~shall~~ must execute Judicial Council form *~~Petitioner Consent and Agreement to~~ Adoption Agreement* (ADOPT-210) in the presence of and with the ~~acknowledged by~~ acknowledgment of the court.

**(g) [Dismissal of jurisdiction]** If the petition for adoption is granted, the juvenile court ~~shall~~ must dismiss the dependency, terminate jurisdiction over the child, and vacate any previously set review hearing dates. A completed Judicial Council form *Termination of Dependency* (JV-364) ~~shall~~ must be filed in the child's juvenile dependency file.

*Clerk stamps below when form is filed.*

**If you are adopting more than one child, fill out an adoption request for each child.**

**1** Your name(s) (adopting parent(s)):
a. _____
b. _____
Relationship to child: _____
Your address*:* _____
Street: _____
City: _____ State: _____ Zip: _____
Your phone #: (_____)_____
Your lawyer *(if you have one): (Name, address, phone #, and State Bar #):*
_____
_____
_____

*Court name and street address:*

**Superior Court of California, County of**

**Case Number:**

**2** Type of adoption: *(Check one)*
☐ Agency *(name):* _____
☐ Independent
☐ International *(name of agency):* _____
☐ Stepparent/Domestic Partner

**3** Information about the child:
a. The child's new name will be:
_____
b. ☐ Boy ☐ Girl
c. Date of birth: _____ Age:_____
d. Child's address *(if different from yours):*
Street: _____

e. Place of birth *(if known):*
City: _____
State: _____ Country: _____
f. If the child is 12 or over, does the child agree to the adoption? ☐ Yes ☐ No

City: _____ State: _____ Zip: _____

**4** Does the child have a legal guardian? ☐ Yes ☐ No
*If yes, attach a copy of the Letters of Guardianship and fill out below:*
a. Date guardianship ordered: _____
b. County: _____
c. Case number: _____

**5** Is the child a dependent of the court? ☐ Yes ☐ No
*If yes, fill out below:*
Juvenile Case Number: _____
County: _____

**6** Child may have Indian ancestry: ☐ Yes ☐ No
*If yes, attach Form ADOPT-220,* Adoption of Indian Child

*(To be completed by the clerk of the superior court if a hearing date is available)*

**Hearing Date** → Hearing is set for:
Date:_____ Time:_____
Dept.:_____ Room:_____
Name and address of court if different from above:
_____
_____
_____

**7** If this is an agency adoption:

   a. I/We have received information about the Adoption Assistance Program Regional Center and mental health services available through Medi-Cal or other programs.  ☐ Yes   ☐ No

   b. All persons with parental rights agree the child should be placed for adoption by the California Department of Social Services or a licensed adoption agency (Fam. Code § 8700) and have signed a *Relinquishment* form approved by the California Department of Social Services except:

   Name: _____   Relationship to child: _____

   Name: _____   Relationship to child: _____

**8** If this is an Independent Adoption:

   a. ☐  A copy of the Adoptive Placement Agreement is attached. (Required in most independent adoptions; see Fam. Code, § 8802.)

   b.  I/We will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption.    ☐ Yes   ☐ No

   c.  All persons with parental rights agree to the adoption and have signed the Adoptive Placement Agreement or *Consent to Adoption*  on a form approved by the California Department of Social Services except:

   Name: _____   Relationship to child: _____

   Name: _____   Relationship to child: _____

**9** If this is a Stepparent/Domestic Partner Adoption:

   a.  The birth parent is    ☐ in State      ☐ out of State
   *(If out of state, the parent may sign his or her concent before a notary* (Fam. Code, § 9003(b).)

   b.  Adopting parents were married: _____(*date*)  *OR*  Domestic partnership registered: _____(*date*). (This does not affect the social worker's recommendation.   Information is for court's only. There is no waiting period.)

**10** ☐  There is no presumed or biological father because the child was conceived by artificial insemination using semen provided to a medical doctor or a sperm bank. (Fam. Code, § 7613.)

**11** Form ADOPT-310 *(Contact After Adoption Agreement)*  :
   ☐ Is attached   ☐ Will not be provided   ☐ Will be filed at least 30 days before the adoption hearing
   ☐ Undecided at this time

**12** Name of birth parents if you know *(optional):*
   a. _____
   b. _____

**13** ☐  The consent of the    ☐ birth mother  ☐ presumed father   is not necessary because *(specify Fam. Code, § 8606 subdivision):*  _____

**14** ☐  A court ended the parental rights of:
   Name: _____   Relationship to child: _____
   Name: _____   Relationship to child: _____

**15** ☐ I/We will ask the court to end the parental rights of :
Name: _____ Relationship to child: _____
Name: _____ Relationship to child: _____

**16** Each person with parental rights listed below has not contacted his or her child in one year
(Fam. Code, § 8604(b)).
Name: _____ Relationship to child: _____
Name: _____ Relationship to child: _____

**17** All persons with parental rights have died:
Name: _____ Relationship to child: _____
Name: _____ Relationship to child: _____

**18** Suitability for Adoption:
Each adopting parent:
    a. Is at least 10 years older than the child
    b. Will treat the child as his or her own
    c. Will support and care for the child
    d. Has a suitable home for the child *and*
    e. Agrees to adopt the child

**19** I/We ask the court to approve the adoption and to declare that the adopting parent(s) and the child have the legal
relationship of parent and child, with all the rights and duties of this relationship, including the right of inheritance.

**20** If a lawyer is representing you in this case, he or she must sign here:

Date: _____ _____ ➤ _____
                 *Type or print your name*                          *Signature of Attorney for Petitioner*

**21** I declare under penalty of perjury under the laws of the State of California that the information in this form is
true and correct to my knowledge, which means if I lie on this form, I am guilty of a crime.

Date: _____ _____ ➤ _____
                 *Type or print your name*                          *Signature of Adopting Parent*

Date: _____ _____ ➤ _____
                 *Type or print your name*                          *Signature of Adopting Parent*

## ADOPT-210   Adoption Agreement

**1** Your name(s) (adopting parent(s)):

a. _____

b. _____

Relationship to child:_____

Your address *(skip this if you have a lawyer):*

Street: _____

City: _____ State: _____ Zip: _____

Your phone #: (_____) _____

Your lawyer *(if you have one): (Name, address, phone #, and State Bar #):*

_____

_____

_____

*Court name and street address:*

**Superior Court of California, County of**

**Case Number:**

**2** Child's name:

_____

Date of birth: _____ Age: _____

**3** I am the child listed in ❷ and I:

☐ a. Want to be able to contact my sister(s) or brother(s) after the adoption and ADOPT-310 has been filed

☐ b. Agree to the adoption

Date: _____ _____
*Type or print your name*

➤ _____
*Signature of child, if 12 or older (child must sign at hearing; Fam. Code, § 8602)*

Date: _____ _____
*Type or print your name*

➤ _____
*Signature of child under 12 (for children who can and want to sign, sign at hearing)*

**4** *You must fill out a or b.*

a. *If only **one adopting parent,** read and sign below:*
I am the stepparent/domestic partner/individual parent listed in ❶, and I agree with the child and the State of California that the child will:

(1) Be adopted and treated as my legal child *and*

(2) Have the same rights as a natural child of mine, including the right of inheritance

Date: _____ _____
*Type or print your name*

➤ _____
*Signature of Adopting Parent (sign at hearing)*

b.  *If **two adopting parents**, read and sign below:*
    We are the adopting parents listed in ❶, and we agree with the child and the State of California that the child will:

    (1)  Be adopted and treated as our legal child (Fam. Code, § 8612(b)) *and*

    (2)  Have the same rights as a natural child of ours, including the right of inheritance.

    ☐  I agree with the other parent to adopt the child.

Date:_____  _____  ➤ _____
                    *Type or print your name*           *Signature of Adopting Parent (sign at hearing)*

Date:_____  _____  ➤ _____
                    *Type or print your name*           *Signature of Adopting Parent (sign at hearing)*

**5**  For stepparent/ domestic parent adoptions only:
*If you are the **parent of the child listed** in ❷, read and sign below:*
I am the parent of the child and spouse or domestic partner of the adopting parent listed in ❶ and I agree to his or her adoption of my child.

Date:_____  _____  ➤ _____
                    *Type or print your name*           *Signature of Legal Parent (sign at hearing)*

**6**  **Executed:**

Date:_____                              ➤ _____
                                                *Judge (or Judicial Officer)*

# ADOPT-215 Adoption Order

**1** Your name(s) (adopting parent(s)):

a._____

b._____

Relationship to child*:_____*

Your address *(skip this if you have a lawyer):*

Street:_____

City:_____ State:_____ Zip:_____

Your phone #:  (_____)_____

Your lawyer *(if you have one): (Name, address, phone #, and State Bar #):*

_____

_____

_____

Court name and street address:

**Superior Court of California, County of**

**Case Number:**

**2** Type of adoption:  *(Check one)*
- ☐ Agency *(name):* _____
- ☐ Independent
- ☐ International *(name of agency):* _____
- ☐ Stepparent/Domestic Partner

**3** Child's name after adoption:

_____

Date of birth:_____ Age:_____

City:_____ State:_____ Country:_____

## Judge will fill out section below.

**4** Name of adoption agency: _____

**5** People present in court today *(date):* _____ in: _____

Dept.:_____ Div.:_____ Rm.:_____ Judge:_____

☐ Adopting parent(s)   ☐ Lawyer for adopting parent(s)

☐ Child      ☐ Child's lawyer      ☐ Child      ☐ Child's lawyer

☐ Parent keeping parental rights (stepparent/domestic partner): _____

☐ Other people present *(list name and relationship to child):*

a. _____ c. _____

b. _____ d. _____

*If more, attach a sheet of paper and write "ADOPT-215, Item 5" at the top.*

**6** The judge finds that the child: *(Check all that apply)*

a.  ☐  Is 12 or over and agrees to the adoption

b.  ☐  Can contact his or her birth brothers and sisters, as described in Form ADOPT-310, Contact After

Adoption Agreement

Child's name: _____

☐  Form ADOPT-310 is attached.

**7** The judge has reviewed the report and other documents and evidence and finds that each adopting parent:

a. Is at least 10 years older than the child

b. Will treat the child as his or her own

c. Will support and care for the child

d. Has a suitable home for the child *and*

e. Agrees to adopt the child

___

**Judge will fill out section below.**

___

**8** ☐ The child is an Indian child. The judge finds that this adoption meets the placement requirements of the Indian Child Welfare Act and that there is good cause to give preference to these adopting parents. The clerk will fill out ⑪ below.

**9** The judge approves the *Contact After Adoption Agreement* (ADOPT-310)

☐ As submitted ☐ As amended on ADOPT-310

**10** The judge believes the adoption is in the child's best interest and orders this adoption.

The child's name after adoption will be: _____

The adopting parent(s) and the child are now parent and child under the law, with all the rights and duties of the parent-child relationship.

Date: _____

➤ _____
*Judge (or Judicial Officer)*

**Clerk will fill out section below.**

## Clerk's Certificate of Mailing

**11** For the adoption of an Indian Child, the Clerk certifies:

I am not a party to this adoption. I placed a filed copy of:

☐ ADOPT-200, *Adoption Request*

☐ ADOPT-215, *Adoption Order*

☐ ADOPT-220, *Adoption of Indian Child*

☐ ADOPT-310, *Contact After Adoption Agreement*

in a sealed envelope, marked "Confidential," and addressed to:

Chief, Division of Social Services
Bureau of Indian Affairs
1849 C Street, N.W.
Mail Stop 310-SIB
Washington, DC 20240

The envelope was mailed, with full postage, by U.S. mail from:

Place: _____ on *(date):* _____

Date: _____ Clerk, by _____, Deputy